

THE TOBACCO INSTITUTE, INC.

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CONFIDENTIAL

TO: Committee of Counsel
FROM: Horace R. Kornegay
SUBJECT: Model State Contraband Cigarette Act

The "Model State Contraband Cigarette Act" has been prepared by Cook & Henderson, pursuant to instructions from the Committee of Counsel, for consideration by the Council of State Government's Committee on Suggested State Legislation (SSL).

Under the procedures of the Council, the SSL will consider proposals for model state acts at its annual meeting, to be held this year in Williamsburg on August 2-3.

As the sponsor of this proposal, the Tobacco Institute will have until July 15, 1979, to modify or amend the draft "Model State Contraband Cigarette Act" in any way without prejudice. The SSL will consider the proposal only as finally submitted, by the Institute, on or before the July 15 deadline.

In our judgment at the Institute, we will benefit directly from serving as the sponsor of a model state act on the contraband problem. The Institute will argue on Capitol Hill that no further consideration of so-called "uniform Federal tax" proposals is appropriate because the states have failed to improve their laws and law enforcement efforts to deter bootlegging. We will further argue that the Institute, out of concern for the tobacco wholesalers and retailers who suffer most, has taken the lead in urging the states to deal with this problem.

The Institute, in short, will have a strong, positive image on dealing with the contraband problem. This image will help us in opposing further Federal legislation to resolve a state problem that the states, themselves, have for the most part ignored.

Notwithstanding our sponsorship of model state legislation, the Council's Subcommittee on Scope and Agenda, now scheduled to meet in Chicago on April 6, may decide that the contraband problem does not constitute a proper issue for consideration by the Council's SSL as model legislation. If the Subcommittee so decides, another opportunity to present the issue to that panel will occur at its next meeting in November 1979.

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In any event, it is not likely that many states, or even a few states, will enact the proposed model act in the immediate future. As a general rule, there is a long "gestation period" between recommendation by the Council and ultimate enactment of suggested state legislation in most jurisdictions.

As prepared by Cook & Henderson, the "Model State Contraband Cigarette Act" will serve, more than anything else, to highlight the fact that Congress has an inclination to jump into an area properly reserved for state action. With the Institute sponsoring model state contraband legislation, the Institute will more effectively argue that affirmative state action, on this problem, is needed before any further Congressional consideration of legislation in the field. Obviously, such affirmative state action includes reducing tax rates in those states where the laws cannot be effectively enforced.

I suggest that the Committee of Counsel, at a meeting in the near future, discuss these materials and give its approval to the enclosed draft bill.

H.R.K.

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